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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,066	11/05/2003	Matti Lipsanen	P2286US00	6309
11764	7590	01/28/2011		
Ditthavong Mori & Steiner, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER				
BRANSKE, HILARY				
ART UNIT		PAPER NUMBER		
2437				
MAIL DATE		DELIVERY MODE		
01/28/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/701,066

Applicant(s)

LIPSANEN ET AL.

Examiner

Hilary Branske

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-26, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) 27-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-26, 38 and 39 is/are rejected.
- 7) ☒ Claim(s) 24 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 10/01/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In view of the Appeal Brief filed on 13 December 2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

1. Claims 1-10, 12-26, 38, and 39 are pending in this application.
2. Claims 1, 38, and 39 have been amended.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 01 October 2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

4. The objections to claims 1, 38, and 39 are withdrawn in light of the amendments to the claims.

5. Claims 24 and 26 are objected to because of the following informalities:

There appears to be a typographical error in claim 24, line 2, where "determining a new access rights" should be "determining new access rights".

There appears to be a typographical error in claim 26, lines 1-2, where "access rights **is** determined" should be "access rights - -are- - determined"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The rejection of claims 1-26, 38 and 39 under 35 U.S.C. 112, second paragraph, as being indefinite, is withdrawn in light of the amendments to the claims.

Claim Rejections - 35 USC § 101

7. The rejection of claim 39 under 35 U.S.C. 101 is withdrawn in light of the amendments to the claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1-10, 12-26, 38, and 39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claims 1-3, 5-8, 10, 12-15, 18-20, 23-26, 38 and 39 are rejected under 35**

U.S.C. 102(e) as being anticipated by Marsh (U.S. Patent Application Publication No. US 2003/0237093 A1), hereinafter "Marsh".

11. **Regarding claim 1**, Marsh discloses "method of controlling user access, by a plurality of users each having associated therewith a wireless communications device, to content transmitted across a communications medium," i.e., determine whether particular types of television programs can be shown based on current users (page 16, ¶ 0215-0217); user carries a radio smartcard badge (page 14, ¶ 0181-0183); "comprising: detecting a presence of each of the users in at least one region in which content receivable by at least one receiver terminal may be consumed, wherein the

detecting is performed via the wireless communications devices by wireless communications," i.e., radio smartcard badges can be utilized to ascertain when users enter and/or leave the viewing area associated with an EPG (electronic programming guide) system (page 14, ¶ 0182); radio smartcard badges rely on radio wireless communication to enable the system to detect when users enter and leave the viewing area (page 14, ¶ 0182); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., rules can be provided such that the system looks at all of the User Preference Files for all of the current users, and determines whether particular types of programs can be shown (page 16, ¶ 0215-0217); "and selectively controlling access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., rules circumscribe the types of programs that individual user collections can view (page 16, ¶ 0206); for example, the system will not allow kids to view "PG" or "R" rated programs (page 16, ¶ 0217).

12. **Regarding claim 2, in view of claim 1**, Marsh discloses "wherein content is broadcasted or multicasted for receipt by the receiver terminal," i.e., client devices are coupled to the content distribution system via a broadcast network (Fig. 2, item 214, page 2, ¶ 0036); content distribution system broadcasts signals, such as cable television signals, across the broadcast network (page 3, ¶ 0042).

13. **Regarding claim 3, in view of claim 1**, Marsh discloses "wherein the region is defined by a communications range of the receiver terminal," i.e., Bluetooth can be

utilized to ensure that the transmission receiving range of the system is about that which is typical of a viewing area, i.e., from about 10 to 20 feet (page 14, ¶ 0182).

14. **Regarding claim 5, in view of claim 1**, Marsh discloses "wherein the determined access rights are determined according to at least an access rights level of each detected user, the access rights level enables determination of a suitability or unsuitability of particular content or content-types for consumption by the user," i.e., father has a high parental guidance rating and can watch content with all censor ratings, while kids have reduced parental control setting and can only watch "U" rated content (page 12, ¶ 0163, page 16, ¶ 0215).

15. **Regarding claim 6, in view of claim 5**, Marsh discloses "wherein the access rights level indicates one of a maturity of a user, suitable content type, and unsuitable content-type," i.e., specifies that kids can only watch "U" rated content (page 16, ¶ 0215).

16. **Regarding claim 7, in view of claim 5**, Marsh discloses "wherein the determined access rights comprises a highest or lowest access rights level of the detected users," i.e., if Dad leaves the room, the system will not allow the kids to view "PG" or "R" rated programs (page 16, ¶ 0217); kids can only watch "U" rated content (page 16, ¶ 0215).

17. **Regarding claim 8, in view of claim 5**, Marsh discloses "wherein the determined access rights are based according to a combination of access rights level of the detected users," i.e., rules module can define individual user collections and rules

associated with the user collections, for example when the collection consists of the primary user (dad) and his kids (page 16, ¶¶ 0216-0217).

18. **Regarding claim 10, in view of claim 5,** Marsh discloses "further comprising retrieving an access rights level for each of the detected users from a storage facility," i.e., rules can be provided such that the system will look at the User Preference Files for all of the current users (page 16, ¶ 0217); user preference files are included in a client system (Fig. 6, item 606, page 6, ¶ 0074).

19. **Regarding claim 12, in view of claim 1,** Marsh discloses "wherein the selectively controlling access comprises filtering received content for output by the receiver terminal to restrict or allow access or consumption of received content according to the determined access rights," i.e., the EPG system can automatically change the program to a more suitable one or present a selection screen to allow users to select a program that is compatible with their parental rating (page 12, ¶ 0163).

20. **Regarding claim 13, in view of claim 1,** Marsh discloses "wherein the selectively controlling access comprises filtering a content guide indicating content or content-types receivable by the receiver terminal," i.e., the EPG system can automatically present a selection screen to allow users to select a program that is compatible with their parental rating (page 12, ¶ 0163).

21. **Regarding claim 14, in view of claim 13,** Marsh discloses "further comprising receiving the content guide from a remote location," i.e., electronic program guide (EPG) data is transmitted to client device from content distribution system (Fig. 2, item 206, page 3, ¶ 0044).

22. **Regarding claim 15, in view of claim 13**, Marsh discloses "wherein the content guide comprises a broadcast program guide," i.e., electronic program guide is associated with broadcast content (pages 2-3, ¶ 0039, ¶ 0044-10045).
23. **Regarding claim 18, in view of claim 1**, Marsh discloses "wherein the selectively controlling access comprises controlling searching or selection of content or content-type by each user based on the determined access rights," i.e., rules associated with the user collection immediately go into effect and the EPG system can automatically present a selection screen to allow the users to select a program that is compatible with their parental rating (page 12, ¶ 0163).
24. **Regarding claim 19, in view of claim 1**, Marsh discloses "wherein the selectively controlling access comprises controlling receipt of content from the receivable content by the receiver terminal based on the determined access rights," i.e., EPG system automatically changes the program to a more suitable one (page 12, ¶ 0163).
25. **Regarding claim 20, in view of claim 19**, Marsh discloses "wherein the controlling receipt of content comprises abstaining from receiving data burst of content determined unsuitable for access or consumption based on the determined access rights," i.e., program that is not compatible is automatically changed (page 12, ¶ 0163).
26. **Regarding claim 23, in view of claim 1**, Marsh discloses "further comprising dynamically updating the determined access rights," i.e., new rules associated with the new user collection immediately go into effect (page 12, ¶ 0163).

27. **Regarding claim 24, in view of claim 23**, Marsh discloses "wherein the dynamically updating comprises determining a new access rights upon a triggering event comprising one of detection of a new user, detection of a user leaving the region, detection of a powering down of the wireless communications device of a detected user, and detection of a change in an access rights profile on the wireless communications device of a detected user," i.e., new rules associated with a new user collection immediately go into effect, for example when the Dad's departure is automatically detected (page 12, ¶ 0163).

28. **Regarding claim 25, in view of claim 23**, Marsh discloses "further comprising dynamically updating access or consumption control of receivable content according to the updated determined access rights," i.e., EPG system can automatically change the program to a more suitable one (page 12, ¶ 0163).

29. **Regarding claim 26, in view of claim 1**, Marsh discloses "wherein the determined access rights is determined for a period of time," i.e., new user collection may not need to be used until the next time that a user action is initiated with respect to the EPG system (page 12, ¶ 0162).

30. **Regarding claim 38**, Marsh discloses "content receiver terminal for controlling user access, by a plurality of users each having associated therewith a wireless communications device, to content delivered across a communications medium," i.e., client device determines whether particular types of television programs can be shown based on current users (Fig. 2, item 212, page 16, ¶ 0215-0217); user carries a radio smartcard badge (page 14, ¶ 0181-0183); "comprising: at least one processor," i.e.,

microprocessor (page 17, ¶ 0229); "and at least one memory including computer program code," i.e., computer-executable instructions (page 17, ¶ 0230-0231); "the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following, detect a presence of each of the users in at least one region in which content receivable by at least the content receiver terminal may be consumed, wherein the detecting is performed via the users' wireless communication devices by wireless communications," i.e., radio smartcard badges can be utilized to ascertain when users enter and/or leave the viewing area associated with an EPG (electronic programming guide) system (page 14, ¶ 0182); radio smartcard badges rely on radio wireless communication to enable the system to detect when users enter and leave the viewing area (page 14, ¶ 0182); "determine access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., rules can be provided such that the system looks at all of the User Preference Files for all of the current users, and determines whether particular types of programs can be shown (page 16, ¶ 0215-0217); "and selectively control access or consumption of receivable content by each of the detected users according to the determined access rights," i.e., rules circumscribe the types of programs that individual user collections can view (page 16, ¶ 0206); for example, the system will not allow kids to view "PG" or "R" rated programs (page 16, ¶ 0217).

31. **Regarding claim 39**, Marsh discloses "non-transitory computer-readable storage medium encoded with processing instructions for implementing a method of controlling

user access, by a plurality of users each having associated therewith a wireless communications device, to content receivable across a communications medium," i.e., client device determines whether particular types of television programs can be shown based on current users (Fig. 2, item 212, page 16, ¶¶ 0215-0217); user carries a radio smartcard badge (page 14, ¶¶ 0181-0183); "which, when executed by one or more processors, cause a content receiver terminal to at least perform the following steps: detecting a presence of each of the users in at least one region in which content receivable by at least the content receiver terminal may be consumed, wherein the detecting is performed via the users' wireless communication devices by wireless communications," i.e., radio smartcard badges can be utilized to ascertain when users enter and/or leave the viewing area associated with an EPG (electronic programming guide) system (page 14, ¶¶ 0182); radio smartcard badges rely on radio wireless communication to enable the system to detect when users enter and leave the viewing area (page 14, ¶¶ 0182); "determining access rights to content based on the detected users, the access rights defining a suitability or unsuitability of each of the users to consume content," i.e., rules can be provided such that the system looks at all of the User Preference Files for all of the current users, and determines whether particular types of programs can be shown (page 16, ¶¶ 0215-0217); "and selectively controlling access or consumption of receivable content by each of the detected users according to the determined access," i.e., rules circumscribe the types of programs that individual user collections can view (page 16, ¶¶ 0206); for example, the system will not allow kids to view "PG" or "R" rated programs (page 16, ¶¶ 0217).

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, in view of Eaton et al. (U.S. Patent Application Publication No. US 2004/0203377 A1), hereinafter "Eaton".**

34. **Regarding claim 4, in view of claim 1**, Marsh does not explicitly disclose detecting a location of a user's communication device. Eaton, however, discloses "wherein the detecting a presence further comprises detecting a location of a user's communications device and determining whether the user's communications device is within the region," i.e., deriving an object location where object has a communication device (page 2, ¶ 0021-0024) and determining if the communication device within the object comes within the communication range of the group controller (page 3, ¶ 0027).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Marsh's system that detects when users enter and/or leave a viewing area associated with an electronic program guide system with Eaton's technique of deriving the location of a communication device in order to improve

tracking of a wireless device (Eaton - page 1, ¶ 0008).

35. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, in view of Nickum (U.S. Patent No. US 6,359,661 B1), hereinafter "Nickum".

36. Regarding claim 9, in view of claim 5, Marsh does not explicitly disclose receiving an access rights level from the user's communication device. Nickum, however, discloses "further comprising receiving an access rights level of each user from the user's communications device," i.e., user IDs associated with access rights level as well as profile information is stored in EEPROM of remote control device (col. 6, lines 38-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Marsh's electronic program guide system that puts into effect rules associated with a detected user collection with Nickum's technique of controlling user access according to programming controls in order to improve control of viewing access (Nickum, col. 1, lines 50-52).

37. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, in view of Kwoh et al. (U.S. Patent No. US 6,115,057), hereinafter "Kwoh".

38. **Regarding claim 16, in view of claim 15**, Marsh discloses "wherein the content guide comprises one or more items indicating receivable content or content-type," i.e., EPG application enables TV viewer to navigate through an onscreen program guide and locate television shows of interest to the viewer (page 3, ¶ 0047).

Marsh does not explicitly disclose the items being configured in a hierarchical parent-child structure in which an access rating of a child item cannot exceed an access rating of a parent item. Kwoh, however, discloses "wherein the content guide comprises one or more items indicating receivable content or content-type, the items being configured in a hierarchical parent-child structure in which an access rating of a child item cannot exceed an access rating of a parent item," i.e., the rating data device ranks the order of the rating levels from highest rating G to lowest rating X in a rating hierarchy, where for example a if a desired rating level is PG-13 and a received video segment has a rating level of R then the video segment has a lower than desired rating level (Fig. 26, item 750, col. 17, lines 46-67 and col. 18, lines 1-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Marsh's electronic program guide system that puts into effect rules associated with a detected user collection with Kwoh's technique of providing parental control in a television receiver in order to improve control in restricting access to displayed information.

39. **Regarding claim 17, in view of claim 16**, Kwoh discloses "wherein the filtering comprises preventing processing of an unsuitable item and any associated child items of the content guide based on the determined access rights," i.e., extracted rating data

is compared to the desired rating level, and if the extracted rating data has a lower rating level than the desired rating data, then the video and audio are blocked from the television monitor (col. 19, lines 9-36).

40. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, in view of Herweck et al. (U.S. Patent No. US 5,731,763), hereinafter "Herweck".

41. Regarding claim 21, in view of claim 20, Marsh does not explicitly disclose powering down content receiving components of the receiver terminal. Herweck, however, discloses "wherein the abstaining from receiving data burst comprises powering down at least content receiving components of the receiver terminal during data bursts of content determined unsuitable," i.e., the receiver provides a power cut-off and receives authorization signals for controlling the power to the television receiver (col. 2, lines 30-49 and col. 5, lines 1-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Marsh's electronic program guide system that puts into effect rules associated with a detected user collection with Herweck's technique that controls power to a television receiver in order to improve control of access to a system (Herweck - col. 1, lines 59-63).

42. **Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, in view of Herweck, and further in view of Chapman et al. (U.S. Patent No. 6,216,228 B1), hereinafter "Chapman".**

43. **Regarding claim 22, in view of claim 21**, neither Marsh nor Herweck explicitly disclose an electronic watermark. Chapman, however, discloses "further comprising receiving receivable content including an electronic watermark indicating an access rating for the content," i.e., a controller receives and extracts a watermark to obtain content classification codes and determines to display content based on the classification code (col. 7, lines 10-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Marsh's electronic program guide system that puts into effect rules associated with a detected user collection and Herweck's technique that controls power to a television receiver with Chapman's technique of controlling display of data by embedding content classification information in a digital watermark in order to improve control of the presentation of video material (Chapman - col. 3, lines 14-16).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walker (U.S. Patent Application Publication No. US 2004/0181695 A1) discloses receiving a signal from a wireless proximity detector to allow access to a workstation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Branske whose telephone number is (571) 270-3395. The examiner can normally be reached on 8:00 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. B./
Examiner, Art Unit 2437

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/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2437